

120 FERC ¶ 61,230
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Avista Corporation	Docket No. ER07-1164-000
Idaho Power Corp.	Docket No. ER07-1165-000
NorthWestern Corporation	Docket No. ER07-1166-000
PacifiCorp	Docket No. ER07-1167-000
Portland General Electric Company	Docket No. ER07-1168-000
Puget Sound Energy, Inc.	Docket No. ER07-1169-000

ORDER DISMISSING PROPOSED VARIATION FROM THE PRO FORMA OPEN
ACCESS TRANSMISSION TARIFF

(Issued September 11, 2007)

1. On July 13, 2007, pursuant to section 205 of the Federal Power Act (FPA),¹ Avista Corporation, Idaho Power Corp., Northwestern Corporation, PacifiCorp, Portland General Electric Company and Puget Sound Energy, Inc. (collectively, Pacific NW IOUs) submitted a joint application requesting a deviation from section 30.3 of the *pro forma* Open Access Transmission Tariff (OATT) as modified in Order No. 890.² In this order, we dismiss the joint application, without prejudice, in light of our recently issued Notice Granting Extension of Effective Date.³

¹ 16 U.S.C. § 824d (2000).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007) (Order No. 890).

³ *Preventing Undue Discrimination and Preference in Transmission Service*, 120 FERC ¶ 61,222 (2007).

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights and reassignments of transmission capacity.

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have not been approved as independent system operators (ISO) or regional transmission organizations (RTO), and whose transmission facilities are not under the control of an ISO or RTO, were directed to submit, within 120 days from publication of Order No. 890 in the *Federal Register* (i.e., July 13, 2007), section 206 compliance filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890.⁴

4. In addition, after submission of their FPA section 206 compliance filings, non-ISO/RTO transmission providers may submit FPA section 205 filings proposing rates for the services provided for in their tariffs, as well as non-rate terms and conditions that differ from those set forth in Order No. 890 if those provisions are “consistent with or superior to” the *pro forma* OATT.⁵

II. The Pacific NW IOUs’ Filing

5. In their joint application, the Pacific NW IOUs request a deviation from section 30.3 of the *pro forma* OATT to permit the undesignation of a network resource lasting less than a day “as early as practicable, but no later than 20 minutes before the first hour for which the undesignation applies.” They state that section 30.3 of the Order No. 890 *pro forma* OATT, which requires undesignation of a network resource no later than the firm scheduling deadline for the period of termination, could affect the viability of real-time firm balancing markets and lead to reliability and liquidity problems due to the nature of markets in the Western Interconnection. The Pacific NW IOUs reason that their

⁴ The original 60-day compliance deadline provided for in Order No. 890 was extended by the Commission in a subsequent order. *See Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 (2007).

⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 135.

proposal is an appropriate regional approach for addressing undesignations of network resources and is consistent with or superior to the *pro forma* OATT. They request a July 13, 2007 effective date.

III. Notice of Filing and Responsive Pleadings

6. Notice of the Pacific NW IOUs' filing was published in the *Federal Register*, 72 Fed. Reg. 41,725 (2007), with comments, interventions and protests due on or before August 3, 2007. Timely motions to intervene were filed by Powerex Corp. and the Nevada Companies.⁶ Arizona Public Service Company filed a timely motion to intervene and comments in support of the Pacific NW IOUs' filing and the Public Generating Pool filed a motion to intervene out of time. The PPL Companies⁷ filed a timely motion to intervene and protest in which they argue that a more reasonable deadline is two hours prior to the hour in which the undesignation applies, rather than 20 minutes before the hour proposed by the Pacific NW IOUs. On August 20, 2007, the Pacific NW IOUs filed an answer to the PPL Companies' protest.

Discussion

7. As discussed below, we will dismiss as moot the Pacific NW IOUs' request for a deviation from section 30.3 of the *pro forma* OATT, without prejudice to resubmission after the Commission addresses the minimum lead time for undesignating network resources in Docket No. RM05-17-000, *et al.* In a notice issued on September 7, 2007, the Commission granted an extension of the effective date of the minimum lead time for undesignating network resources adopted in Order No. 890 and, thus, defers the effectiveness of that requirement.⁸ As the Commission explained in the notice, we will revisit the issue of the minimum lead time for undesignating network resources in an order to be issued in the rulemaking proceeding. Accordingly, we find the Pacific NW IOUs' joint proposal in this proceeding to be moot and will dismiss the joint application, without prejudice.

⁶ The Nevada Companies are Nevada Power Company and Sierra Pacific Power Company.

⁷ The PPL Companies are PPL EnergyPlus, LLC and PPL Montana, LLC.

⁸ *Preventing Undue Discrimination and Preference in Transmission Service*, 120 FERC ¶ 61,222 (2007).

The Commission orders:

The Pacific NW IOUs' joint application is hereby dismissed as moot, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.